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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STEFFON BARBER, an
individual,

Plaintiff,

v.

COUNTY OF SAN
BERNARDINO, a municipal entity,
and CHRISTOPHER ALFRED, an
individual,

Defendants.

) Case No. 5:22-cv-00625-KK-DTB
)
) **PLAINTIFF'S OPPOSITION TO**
) **DEFENDANTS' MOTION IN**
) **LIMINE NO. 5 TO TRIFURCATE**
) **TRIAL INTO THREE PHASES:**
) **(1) LIABILITY PHASE,**
) **COMPENSATORY DAMAGES**
) **CALCULATION, AND PUNITIVE**
) **DAMAGES PREDICATE; (2)**
) **PUNITIVE DAMAGES**
) **CALCULATION, IF**
) **NECESSARY; AND (3) MONELL**
) **LIABILITY, MONELL**
) **DAMAGES CALCULATION, IF**
) **NECESSARY**

1 Plaintiff STEFFON BARBER ("Plaintiff") will and hereby does oppose
2 Defendants County of San Bernardino and Christopher Alfred's motion *in limine* No.
3 5 to trifurcate trial.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **I. Summary**

6 Defendants seek an unprecedented three-phase trial structure that would
7 unduly prejudice Plaintiff, waste judicial resources, and improperly fragment the
8 jury's consideration of this straightforward § 1983 excessive force case. While
9 Defendants frame their request as promoting efficiency, trifurcation would instead
10 create unnecessary complexity, require the jury to hear evidence and deliberate on
11 three separate occasions, and improperly sever issues that are inherently intertwined
12 in cases arising from a single incident of alleged police misconduct.

13 The applicable legal standards governing excessive force claims under 42
14 U.S.C. § 1983 do not support—much less require—the extreme severance
15 Defendants propose. Federal courts routinely try § 1983 excessive force cases with
16 liability, compensatory damages, and the punitive damages predicate presented
17 together in a unified first phase, followed by a second phase on punitive damages
18 calculation if necessary. This traditional bifurcation structure adequately addresses
19 any concerns about prejudice from wealth evidence while preserving the jury's
20 ability to make coherent, informed decisions about the totality of Defendants'
21 conduct. Defendants' attempt to further carve out Monell liability into a third phase
22 is particularly inappropriate given that municipal liability under Monell is predicated
23 on the same underlying constitutional violation at issue in the liability phase and
24 shares common factual foundations.

25 Plaintiff does not oppose all severance. To the contrary, Plaintiff will agree to
26 a traditional two-phase bifurcation: (1) a first phase addressing liability,
27 compensatory damages, and the predicate for punitive damages, including Monell
28 liability; and (2) if necessary, a second phase addressing punitive damages

1 calculation against the individual defendant. This reasonable compromise
2 adequately protects against any potential prejudice from wealth evidence while
3 avoiding the waste, confusion, and unfairness that would result from Defendants'
4 proposed three-phase structure. Accordingly, Defendants' motion to trifurcate
5 should be denied, and the Court should adopt the bifurcation structure Plaintiff
6 proposes.

7 **II. Facts**

8 On April 27, 2021, Deputy Christopher Alfred of the San Bernardino County
9 Sheriff's Department shot Plaintiff Steffon Barber in the head during a response to a
10 mental health crisis at Plaintiff's residence in Adelanto, California. Plaintiff was
11 seated in his vehicle in his own driveway when Deputy Alfred fired six rounds from
12 his service weapon, striking Plaintiff once in the back of the head and causing severe
13 traumatic brain injury. Plaintiff is now permanently wheelchair-bound and suffers
14 from ongoing cognitive deficits, left-sided paralysis, and progressive traumatic
15 encephalopathy.

16 Plaintiff brings individual claims under 42 U.S.C. § 1983 for excessive force
17 against Deputy Alfred, as well as municipal liability claims against the County of
18 San Bernardino under *Monell v. Department of Social Services*. The Monell claims
19 are based on the County's failure to train deputies regarding use of deadly force,
20 unconstitutional customs and practices in evaluating officer-involved shootings, and
21 ratification of Deputy Alfred's conduct by finding the shooting "within policy." Both
22 the individual and municipal liability claims arise from the same incident and share
23 common factual foundations.

24 The evidence necessary to prove both sets of claims is substantially
25 overlapping and interrelated. The facts of the shooting itself—including Deputy
26 Alfred's tactical decisions, failure to use de-escalation techniques, and decision to
27 shoot at a moving vehicle—are equally relevant to establishing both the individual
28 excessive force violation and the County's failure to adequately train. Deputy

1 Alfred's training deficiencies, his understanding of County Policy 3.608 regarding
2 shooting at moving vehicles, his violation of that policy, and the County's post-
3 incident determination that his conduct was "within policy" despite the policy
4 violation all bear directly on both individual and municipal liability. Additionally,
5 evidence of the County's pattern of finding similar shootings involving moving
6 vehicles "within policy" is relevant to both Deputy Alfred's understanding of
7 constitutional standards and the County's deliberate indifference to training failures.

8 Plaintiff's expert witness Scott DeFoe will testify regarding both the
9 individual excessive force claim and the Monell claim. Mr. DeFoe's opinions address
10 Deputy Alfred's tactical errors and violation of basic police training, the
11 unreasonableness of the force used, the County's failure to properly train Deputy
12 Alfred on use of force standards, and the County's ratification of Deputy Alfred's
13 conduct through its "within policy" finding. This unified expert testimony
14 demonstrates the inherent interrelation between the individual and municipal claims
15 and the inefficiency of artificially separating them into distinct trial phases.

16 **III. ANALYSIS**

17 **A. Trifurcation Is Legally Disfavored and Would Create Unnecessary** 18 **Complexity in This Straightforward Excessive Force Case**

19 Federal Rule of Civil Procedure 42(b) provides that "the court may order a
20 separate trial of one or more separate issues, claims, crossclaims, counterclaims, or
21 third-party claims" for convenience, to avoid prejudice, or to expedite and
22 economize. However, the party seeking severance bears the burden of demonstrating
23 that such relief is warranted. In *United States v. Disla*, the court stated that "the party
24 seeking severance bears the burden of demonstrating the need for separate trials"
25 and must establish that joinder was "so manifestly prejudicial that it outweighed the
26 dominant concern with judicial economy and compelled exercise of the court's
27 discretion to sever" (*U.S. v. Disla*, 805 F.2d 1340 (1986)). Courts disfavor multiple
28 phases of trial because they create inefficiency, potential for inconsistent verdicts,
and jury confusion. The decision to bifurcate or trifurcate is within the trial court's

1 sound discretion, but that discretion must be exercised with careful consideration of
2 the factors relevant to the particular case.

3 In evaluating whether to grant severance, courts consider: (1) whether the
4 issues are inextricably intertwined; (2) whether separate trials would prejudice either
5 party; (3) whether the same evidence applies to multiple claims; and (4) judicial
6 economy. (*Lindora, LLC v. Isagenix International, LLC*, 198 F.Supp.3d 1127
7 (2016)). These factors weigh heavily against trifurcation in this case. The claims
8 against Deputy Alfred for excessive force and the Monell claims against the County
9 arise from the same incident, involve substantially overlapping evidence, and present
10 issues that are fundamentally interrelated. Artificially severing these claims into
11 three separate phases would not promote judicial economy or avoid prejudice—it
12 would accomplish precisely the opposite.

13 In § 1983 cases against municipalities and individual officers, the claims
14 typically share common facts and evidence such that complete separation is
15 inappropriate. The constitutional violation committed by the individual officer forms
16 the predicate for municipal liability under Monell, and the same evidence that
17 demonstrates the officer's violation of constitutional standards often also
18 demonstrates the municipality's failure to train or deliberate indifference. Here,
19 evidence regarding Deputy Alfred's tactical decisions, his understanding of County
20 policies, his violation of Policy 3.608 regarding shooting at moving vehicles, and his
21 training deficiencies are directly relevant to both the individual excessive force claim
22 and the County's failure to train. Similarly, evidence of the County's pattern of
23 finding similar shootings "within policy" goes to both Deputy Alfred's understanding
24 of acceptable conduct and the County's deliberate indifference to constitutional
25 training.

26 Three-phase trials are rarely ordered and only in exceptional circumstances
27 not present here. Defendants have failed to demonstrate any exceptional
28 circumstances that would justify the extraordinary relief they seek. This is not a case

1 involving multiple plaintiffs with divergent claims, complex multiparty litigation
2 requiring separate treatment of distinct theories, or any other circumstance that
3 would render a unified liability phase unworkable. Rather, this is a straightforward
4 § 1983 excessive force case arising from a single incident in which both individual
5 and municipal liability are predicated on the same underlying facts and share
6 common evidentiary foundations. Trifurcation is neither necessary nor appropriate.

7 **B. Plaintiff Agrees to Traditional Bifurcation, Which Adequately**
8 **Addresses Defendants' Legitimate Concerns While Avoiding the**
9 **Prejudice and Inefficiency of Trifurcation**

10 Plaintiff does not oppose reasonable trial management procedures that protect
11 against prejudice while promoting efficiency. Accordingly, Plaintiff agrees to
12 bifurcation of this trial into two phases: (1) Phase One addressing liability,
13 compensatory damages, and the predicate for punitive damages (including all
14 Monell claims); and (2) Phase Two, if necessary, addressing calculation of punitive
15 damages against Deputy Alfred. This traditional bifurcation structure adequately
16 addresses Defendants' stated concerns about prejudice from punitive damages
17 wealth evidence while preserving the jury's ability to consider the complete picture
18 of Defendants' conduct and its consequences.

19 Bifurcation protects against prejudice from punitive damages evidence while
20 allowing the jury to hear the complete liability case in one coherent phase. The
21 primary concern with punitive damages evidence is that testimony regarding Deputy
22 Alfred's personal financial condition and net worth may improperly influence the
23 jury's liability determination. Traditional bifurcation eliminates this concern by
24 deferring all evidence of wealth and financial condition to the second phase, to be
25 presented only if the jury first finds liability and determines that punitive damages
26 are warranted. However, there is no similar concern with Monell evidence that
27 would justify further fragmentation of the trial.

28 Monell liability must be decided in Phase One because it is a predicate for
institutional punitive damages and because the same evidence proving Deputy

1 Alfred violated Plaintiff's rights also proves the County's systemic failures. Under
2 *City of Los Angeles v. Heller*, there can be no Monell liability unless the individual
3 officer violated the plaintiff's constitutional rights. Accordingly, the jury must first
4 determine whether Deputy Alfred's use of deadly force was excessive before it can
5 consider whether the County's policies, customs, or training deficiencies caused that
6 violation. Moreover, the evidence necessary to establish both claims is inextricably
7 intertwined. Deputy Alfred's training history, his understanding of County Policy
8 3.608, his violation of that policy by shooting at a moving vehicle, and the County's
9 post-incident determination that the shooting was "within policy" despite the policy
10 violation all bear directly on both individual and municipal liability.

11 The expert testimony in this case, particularly from Plaintiff's police practices
12 expert Scott DeFoe, addresses both individual and municipal liability and cannot be
13 artificially split without creating confusion and inefficiency. Mr. DeFoe will testify
14 that Deputy Alfred's use of deadly force was objectively unreasonable, that Deputy
15 Alfred failed to follow basic police training and County policy, that the County failed
16 to adequately train Deputy Alfred on constitutional use of force standards, and that
17 the County ratified Deputy Alfred's conduct by finding the shooting "within policy."
18 This testimony is equally relevant to establishing the excessive force violation and
19 the County's failure to train. Requiring Mr. DeFoe to testify in Phase One regarding
20 the excessive force claim and then return in a hypothetical Phase Three to provide
21 substantially similar testimony regarding municipal liability would waste time,
22 confuse the jury, and create unnecessary expense.

23 Evidence of prior similar incidents and the County's pattern of finding officer-
24 involved shootings "within policy" goes directly to both excessive force and Monell
25 ratification theories. The County's handling of previous shootings involving moving
26 vehicles—including the *Archibald*, *Martinez*, *Factor*, *Phillips*, *Young*, and *Ramos*
27 cases—demonstrates both a pattern that Deputy Alfred would have understood as
28 acceptable conduct and the County's deliberate indifference to constitutional

1 training. This evidence is admissible in Phase One to show Deputy Alfred's state of
2 mind and the environment in which he operated, as well as to establish the County's
3 custom of ratifying excessive force. Artificially deferring this evidence to a third
4 phase would undermine its probative value and require the jury to revisit issues
5 already decided in Phase One.

6 Separating Monell claims into a third phase would require re-presenting
7 substantial evidence already heard in Phase One, creating inefficiency and jury
8 confusion. After hearing all the evidence regarding the shooting incident, Deputy
9 Alfred's training, and his violation of policy in Phase One, the jury would be asked
10 to return for a third phase to hear much of the same evidence again—this time framed
11 in terms of municipal liability. The jury would hear again about Policy 3.608, about
12 Deputy Alfred's understanding of that policy, about his training deficiencies, and
13 about the County's post-incident investigation. This redundancy serves no purpose
14 other than to waste judicial resources and risk jury fatigue and confusion. Traditional
15 bifurcation avoids these problems by allowing the jury to consider all liability issues
16 together in a coherent, efficient manner.

17 **C. Trifurcation Would Prejudice Plaintiff, Create Risk of Inconsistent**
18 **Verdicts, and Undermine Judicial Economy**

19 Trifurcation would fragment Plaintiff's case and undermine the persuasive
20 power of showing the systemic nature of the violations that resulted in his
21 catastrophic injuries. A central theme of Plaintiff's case is that the shooting that left
22 him permanently wheelchair-bound and cognitively impaired was not an isolated
23 mistake by one deputy, but rather the predictable result of the County's systemic
24 failures to train, supervise, and hold deputies accountable for shooting at moving
25 vehicles in violation of policy and constitutional standards. The County's pattern of
26 finding such shootings "within policy," the policy change from "shall not" to
27 "generally" after this incident, and Deputy Alfred's testimony that he was never
28 trained on core constitutional principles all tell a coherent story that the jury must
hear together to understand the full scope of what happened and why. Artificially

1 severing the municipal liability claims into a separate phase would rob Plaintiff of
2 the opportunity to present this unified narrative and would improperly minimize the
3 County's role in causing Plaintiff's injuries.

4 The jury may become fatigued or lose interest by a third phase, potentially
5 affecting deliberations and the quality of their decision-making. Jurors are asked to
6 take time away from their work and families to serve, and they approach that service
7 with appropriate seriousness in the initial phases of trial. However, requiring jurors
8 to return for a third round of deliberations after they have already decided liability
9 and compensatory damages in Phase One and potentially punitive damages
10 calculation in Phase Two creates a significant risk that fatigue and impatience will
11 set in. The Monell claims—which require careful consideration of complex evidence
12 regarding training practices, policy implementation, and the County's pattern of
13 responses to similar incidents—deserve the jury's full attention. Relegating these
14 claims to a third phase when juror engagement may be waning does a disservice to
15 both parties and risks compromising the quality of the verdict.

16 Requiring Plaintiff to prove the County's liability separately after already
17 proving the underlying constitutional violation is duplicative and prejudicial. Under
18 *City of Los Angeles v. Heller*, the jury will necessarily determine in Phase One that
19 Deputy Alfred violated Plaintiff's Fourth Amendment rights before any
20 consideration of municipal liability can proceed. That constitutional violation forms
21 the foundation for the Monell claims. Yet under Defendants' trifurcation proposal,
22 after the jury has already found that Deputy Alfred used excessive force, Plaintiff
23 would have to present much of the same evidence again in Phase Three to establish
24 that the County's training failures or customs caused that very violation. This
25 structure is inherently duplicative, forces Plaintiff to re-litigate issues already
26 decided, and creates a substantial risk that the jury will be confused about what they
27 are being asked to decide in the third phase.

1 Witness availability and logistics are complicated by multiple phases,
2 particularly where experts and fact witnesses may need to testify multiple times or
3 return to court after extended delays. Mr. DeFoe will need to testify regarding both
4 the reasonableness of Deputy Alfred's use of force and the County's training failures.
5 Under bifurcation, he testifies once in Phase One and addresses all liability issues in
6 a coherent manner. Under trifurcation, he would either need to testify twice (once in
7 Phase One regarding excessive force and again in Phase Three regarding training),
8 creating obvious inefficiency and additional expense, or his testimony would need
9 to be artificially limited in Phase One to exclude discussion of County training
10 practices, depriving the jury of the complete context necessary to understand Deputy
11 Alfred's actions. Neither option serves the interests of justice or judicial economy.
12 Similar concerns arise with fact witnesses who have knowledge of both the incident
13 and the County's policies and practices.

14 The risk of inconsistent verdicts increases with three phases, particularly
15 where the same factual findings may be required in multiple phases. For example,
16 the jury's determination in Phase One regarding whether Deputy Alfred violated
17 County Policy 3.608 by shooting at a moving vehicle is directly relevant to the
18 Monell ratification claim in Phase Three. Yet if these determinations are made in
19 separate phases, there is a risk that the jury's Phase One findings may not align with
20 its Phase Three conclusions, creating internal inconsistencies in the verdict.
21 Traditional bifurcation eliminates this risk by having the jury consider all liability
22 issues—including both individual and municipal liability—in a single, coherent
23 phase where they can ensure their findings are internally consistent.

24 Judicial economy strongly favors hearing all liability issues together in Phase
25 One followed by a punitive damages phase if necessary. The Court will need to
26 instruct the jury on the elements of excessive force, the standards governing use of
27 deadly force, the reasonableness analysis under *Graham v. Connor*, and the relevant
28 County policies and training practices. These same instructions and legal standards

1 apply equally to the Monell failure-to-train claims. Requiring the Court to instruct
2 the jury on these matters in Phase One and then again in Phase Three serves no
3 purpose and wastes valuable judicial resources. Similarly, counsel's opening
4 statements and closing arguments on liability issues can be presented efficiently in
5 Phase One if all liability claims are heard together but would need to be repeated or
6 significantly expanded if Monell claims are carved out into a third phase.

7 The specific facts of this case demonstrate how artificially severing individual
8 and municipal liability issues prejudices Plaintiff and undermines the jury's ability
9 to render a just verdict.

10 **IV. Conclusion**

11 Based on the foregoing arguments, Defendants' motion *in limine* to trifurcate
12 trial should be denied. Plaintiff respectfully agrees to traditional bifurcation of the
13 trial into two phases (1) liability, compensatory damages, and punitive damages
14 predicate, and (2) punitive damages calculation if necessary—which adequately
15 addresses Defendants' concerns while preserving judicial economy and avoiding the
16 prejudice and inefficiency inherent in Defendants' proposed three-phase structure.

17
18 Dated: December 18, 2025 **IVIE McNEILL WYATT PURCELL & DIGGS**

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